

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

MIGUEL CRUZ GONZALEZ,	:	MOTION TO VACATE
Movant,	:	28 U.S.C. § 2255
	:	
v.	:	CRIMINAL INDICTMENT NO.
	:	1:07-CR-0151-ODE-JFK-1
UNITED STATES OF AMERICA,	:	
Respondent.	:	CIVIL FILE NO.
	:	1:15-CV-1830-ODE-JFK

**UNITED STATES MAGISTRATE JUDGE’S  
FINAL REPORT AND RECOMMENDATION**

Movant has filed a 28 U.S.C. § 2255 motion to vacate, set aside, or correct his federal sentence entered in this Court under the above criminal docket number. The matter is before the Court on its March 18, 2016, Order, which observed that prison records showed that Movant had been released from prison and had provided the Court with no updated address and, therefore, required Movant to show cause, within fourteen, days as to why his action should not be dismissed. (Order of Mar. 18, 2016, ECF No. 43). That Order was returned to the Court as undeliverable. (Mail Returned, ECF No. 44).

As of April 5, 2016, Movant has not notified the Court of his whereabouts. Local Rule 41.2 B provides that “[t]he failure . . . of a party appearing *pro se* to keep the clerk’s office informed of any change in address and/or telephone number which


causes a delay or otherwise adversely affects the management of the case shall constitute grounds . . . for dismissal of the action without prejudice . . . .” Because the Court has no information on Movant’s whereabouts, it is recommended that this action be dismissed without prejudice.

Under Rule 11 of the Rules Governing § 2255 Cases, “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” The undersigned recommends that, absent a response from Movant and without knowing Movant’s whereabouts, a dismissal without prejudice is not reasonably debatable. See Damren v. Florida, 776 F.3d 816, 820 (11th Cir. 2015) (stating that a certificate of appealability for an adverse procedural ruling should not issue unless the procedural ruling is debatable by jurists of reason).

As this Court has no information regarding Movant’s whereabouts, it is **RECOMMENDED** that this § 2255 motion [30] be **DISMISSED WITHOUT PREJUDICE** pursuant to Local Rule 41.2 B and that a certificate of appealability be **DENIED**.

The Clerk is **DIRECTED** to withdraw the referral of the § 2255 motion to the Magistrate Judge.

**IT IS SO RECOMMENDED**, this 5<sup>th</sup> day of April, 2016.

  
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JANET F. KING  
UNITED STATES MAGISTRATE JUDGE